

ST



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,025	09/03/1999	CHARLES A. PEYSER	07710.0002-0	6210

22852 7590 07/11/2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER LLP  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

BONDERER, DAVID A

ART UNIT PAPER NUMBER

3625

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/390,025

Applicant(s)

PEYSER ET AL.

Examiner

D. Austin Bonderer

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 1999 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,4 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. in view of Shkedy.

Shavit discloses a an interactive market management system comprising:

- Receiving a request for purchase from a buyer;
- Providing the request to a plurality of sellers;
- Providing a reply to the buyer;
- Receiving a selection from the buyer in response;
- Notifying the seller of the selection;
- Registering the buyer;
- Obtaining contact information from the buyer;
- Obtaining the buyer name;
- Assigning a password to the buyer;
- Obtaining business needs/demographics of the buyer;
- Obtaining billing information of the seller;
- Receiving information as to the location, the needed goods/services, and the features of the goods/services;

Art Unit: 3625

- Complies a list of sellers to receive the request;
- Sending information to those sellers;
- Denying the continuation of the process when the buyers ID is not confirmed;
- Presenting contractual terms of the desired agreement;
- Receiving acceptance of the terms from the buyer;
- Sellers provide information as to the types of business that they are looking for;
- Filtering out sellers that are unable to fill the desired orders;
- A memory that stores data;
- A processor that can automatically prepare a bid from the sellers;
- Transfer the automatically prepared bid to the user and allow the user to respond;
- and
- Provides the sellers with the identification of the buyer.

Shkedy discloses a method and apparatus for facilitating buyer-driven purchase orders on a commercial network system comprising:

- Electronic commerce;
- Buyers aggregating their orders into pooled orders;
- Presenting the purchase request to a plurality of sellers;
- A plurality of payment methods;
- Obtaining contact information for the group;
- Identification for the group;
- Passwords for members of the group;
- Identification for the buyers;

Art Unit: 3625

- Compiling a list of sellers;
- Transmitting the request to those sellers;
- Qualifying the group;
- Distributing the request after the group is qualified;
- Presenting contractual terms and conditions;
- Receiving acceptance of the terms and conditions from the group;
- A database that stores data; and
- A processor.

Shavit lacks the establishing of a group of buyers to provide for a greater buying power. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Shavit with the pooling of buyers and the sending of the request to many sellers as taught Shkedy in order to increase the buying power of the individual buyers and decreasing the price.

Shavit and Shkedy lack the input of prior usage of the buyer into the system. It is notoriously well known in the art at the time of the invention to ask what the buyers past usage is. Sellers like to know for many reasons. One of them being if the buyer is a large consumer they may want to underbid to receive future volume. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an input as to the past usage of the buyer.

Shkedy does not specifically state that the sellers can pick their preferred methods of payment. However, Shkedy does disclose many different methods of payment. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the seller to pick which one of the methods of payment they would prefer. It is a well-known business process that

Art Unit: 3625

freedom of funds transfer increases the amount of transactions. That is why merchants are willing to pay credit card companies processing fees in order to allow their customers to use credit cards.

It has been held that a recitation with respect to the manner in which a claimed apparatus/method is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed same limitations.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leonard, Luke et al., Thomas et al., Moen et al., Chelliah et al., Fisher et al., Wagner and Brown disclose types of selling methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Austin Bonderer whose telephone number is 703.306.5911. The examiner can normally be reached on Monday- Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W Coggins can be reached on 703.308.1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.113.

dab  
June 19, 2002

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600